

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK**

JOAN T. SCHRADER,

Plaintiff,

v.

**5:08-CV-119
(FJS/VEB)**

COMMISSIONER OF SOCIAL SECURITY,

Defendant.

APPEARANCES

OF COUNSEL

OLINSKY & SHURTLIFF

300 South State Street, Suite 520
Syracuse, New York 13202
Attorneys for Plaintiff

HOWARD D. OLINSKY, ESQ.

**SOCIAL SECURITY
ADMINISTRATION
OFFICE OF REGIONAL
COUNSEL, REGION II**

26 Federal Plaza – Room 3904
New York, New York 10278
Attorneys for Defendant

MARIA P. FRAGASSI SANTANGELO, ESQ.

SCULLIN, Senior Judge

ORDER

When a party does not object to a magistrate judge's report and recommendation, the court reviews that report and recommendation for clear error or manifest injustice. *See Linares v. Mahunik*, No. 9:05-CV-625, 2009 WL 3165660, *10 (N.D.N.Y. July 16, 2009) (citation and footnote omitted). After conducting this review, "the Court may 'accept, reject, or modify, in whole or in part, the . . . recommendations made by the magistrate judge.'" *Id.* (quoting 28 U.S.C. § 636(b)(1)(C)).

The Court has reviewed Magistrate Judge Bianchini's November 4, 2010 Report and Recommendation for clear error and manifest injustice; and, finding none, the Court hereby

ORDERS that Magistrate Judge Bianchini's November 4, 2010 Report and Recommendation is **ACCEPTED in its entirety** for the reasons stated therein; and the Court further

ORDERS that Plaintiff's motion for judgment on the pleadings is **GRANTED**; and the Court further

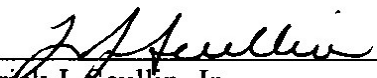
ORDERS that Defendant's motion for judgment on the pleadings is **DENIED**; and the Court further

ORDERS that Defendant's decision is **REVERSED** and this case is **REMANDED** to the Commissioner of Social Security pursuant to sentence four of 42 U.S.C. § 405(g) for further administrative proceedings for the reasons set forth in Magistrate Judge Bianchini's November 4, 2010 Report and Recommendation; and the Court further

ORDERS that the Clerk of the Court shall enter judgment in favor of Plaintiff and close this case.

IT IS SO ORDERED.

Dated: December 27, 2010
Syracuse, New York



Frederick J. Scullin, Jr.
Senior United States District Court Judge